

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

2 Name Hernandez Morales, Elias

3 Prisoner Number 72342-008

4 Institutional Address P. O Box 4000, Springfield Miss.
5 65801

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

Elias Hernandez moreno

(Enter the full name of plaintiff in this action.)

vs.
Marty Anderson, Warden
U.S. Medical Center for Federal
Prisoners
Springfield, Mo

Case No. 4400 3 RMW
(To be provided by the clerk of court) (PR)

**PETITION FOR A WRIT
OF HABEAS CORPUS**

Read Comments Carefully Before Filling In

When and Where to File

18 You should file in the Northern District if you were convicted and sentenced in one of these
19 counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa,
20 San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in
21 this district if you are challenging the manner in which your sentence is being executed, such as loss of
22 good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

1 3. Did you have any of the following?

2 Arraignment:

Yes No _____

3 Preliminary Hearing:

Yes No

4 Motion to Suppress:

Yes No

5 4. How did you plead?

6 Guilty Not Guilty Nolo Contendere

7 Any other plea (specify) Guilty held.

8 5. If you went to trial, what kind of trial did you have?

9 Jury Judge alone Judge alone on a transcript

10 6. Did you testify at your trial? Yes No _____

11 7. Did you have an attorney at the following proceedings:

12 (a) Arraignment

Yes No _____

13 (b) Preliminary hearing

Yes No

14 (c) Time of plea

Yes No

15 (d) Trial

Yes No

16 (e) Sentencing

Yes No

17 (f) Appeal

Yes No _____

18 (g) Other post-conviction proceeding

Yes No _____

19 8. Did you appeal your conviction?

Yes No _____

20 (a) If you did, to what court(s) did you appeal?

21 Court of Appeal

Yes No _____

22 Year: 2006 Result: _____

23 Supreme Court of California

Yes No _____

24 Year: 2007 Result: denied chief. face

25 Any other court

Yes No _____

26 Year: 2007 Result: I state for trial.

27 (b) If you appealed, were the grounds the same as those that you are raising in this

28

1 petition? Yes No _____

2 (c) Was there an opinion? Yes No _____

3 (d) Did you seek permission to file a late appeal under Rule 31(a)?
Yes No _____

4 If you did, give the name of the court and the result:

5 Room 8112 110 South Church Av.
6 Tucson, AZ 85701 -16

7 9. Other than appeals, have you previously filed any petitions, applications or motions with respect to
8 this conviction in any court, state or federal? Yes No _____

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that
11 challenged the same conviction you are challenging now and if that petition was denied or dismissed
12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit
13 for an order authorizing the district court to consider this petition. You may not file a second or
14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28
15 U.S.C. §§ 2244(b).]

16 (a) If you sought relief in any proceeding other than an appeal, answer the following
17 questions for each proceeding. Attach extra paper if you need more space.

18 I. Name of Court: San Jose CA 1st Room 200 95113
19 Type of Proceeding: 2255 motion trial Appeal

20 Grounds raised (Be brief but specific):

21 a. The APPEAL 2255.
22 b. Habe. Indictment.
23 c. Case enter bat not Seender.
24 d. for Case APPEAL.

25 Result: CROSS - APPEAL Date of Result: 2002

26 II. Name of Court: Tucson, AZ Room 8112-110 church
27 Type of Proceeding: CASE Crly 4/00 SC

28 Grounds raised (Be brief but specific):

- a. Loss or waiver of right
- b. to Intervene
- c. Estopel or duty to intervene
- d. Exhaustion of remedies

Result: Notice of Appearance Date of Result: 14-2-07

III. Name of Court: Del Rio Tx.

Type of Proceeding: Motion Habeas Corpus 255-2754

Grounds raised (Be brief but specific):

- a. 40,70 AM Jvr 2d. Pensions and
- b. Requirement Funds. 456,467
- c. _____
- d. affidavit

Result: 14-2-07 Date of Result: 14-2-07

IV. Name of Court: San Francisco CA

Type of Proceeding: General Principles 1-4

Grounds raised (Be brief but specific):

- a. 41 Am Jvr Social Security
- b. and Medicare 1037 - 1140.
- c. _____
- d. _____

Result: 14-4-07 Date of Result: 14-4-07

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

Yes No

Name and location of court:

Del Rio "Brodubay 78840

B. GROUNDS FOR RELIEF

State briefly every reason that you believe you are being confined unlawfully. Give facts to support each claim. For example, what legal right or privilege were you denied? What happened? Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: Annotations Modern Status and Appl.
6 Action of rule that only voluntary transfer
7 Supporting Facts: 1946 (Soil conservation benefit
8 fits.)

9

10 Claim Two: 34. Restatement (Second) of Contract
11 71 324. Comm o o s
12 Supporting Facts: Youngberg v. E. Paso Brick
13 Co., 155 S.W. 2d 15 (Tex. Civ. App. 1941)
14 Paso 1913.

15

16 Claim Three: 42 - 53 pm Jur. 2d Military and
17 Civil Defense 174.

18 Supporting Facts: Forms; Answer - Denial
19 of Assignment - No
20 Execution or delivery of instrument
21 2 AM Jur. PL 4 Pr Forms (Rev) Assignment
22 Form 8

23 If any of these grounds was not previously presented to any other court, state briefly which

24 grounds were not presented and why:

25 order to pay proceed of Purchase order 2 Am
26 effect Various Statutes/Legal. Form 2d Assignment
27 C. Delivery OR transfer 131 - 134 Research
28 References ALR Digest: Assignment 12, 15

1 List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases:

4 X44-005L Cr. 4142 D.M.W.
5 3,30400 CU:
6 _____

7 Do you have an attorney for this petition? Yes No

8 If you do, give the name and address of your attorney: Blbr. Beterans
9 Manuel Pacheco 1700 Bo. de las Flores del Rio TX.

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12 Executed on 3-4-08 Eliel S. Hernandez
13 Date Signature of Petitioner
14

15 (Rev. 6/02)
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28 USCS § 2254, n 760

was sufficient evidence to support petitioner's conviction for second degree felony murder when it was foreseeable that gun battle would be provoked by underlying armed robbery offense. *Santana v Kuhlmann* (2002, SD NY) 232 F Supp 2d 154.

In habeas corpus proceeding pursuant to 28 USCS § 2254 challenging conviction on one count of felony murder and four counts of robbery, inmate was not entitled to relief on his claim that there was insufficient proof that he acted with same intent as co-defendant to warrant his conviction on charge of felony murder; inmate's statements—that he planned to go to "weed house" to rob occupants of drugs and money—constituted sufficient evidence upon which rational fact finder could find that prosecution established, beyond reasonable doubt, that he formed intent to commit robbery and, therefore, was guilty of felony murder. *Lewis v Bennett* (2004, WD NY) 328 F Supp 2d 396.

761. —First degree murder

Question, that upon trial of petitioner for murder in which he was convicted of murder in first degree evidence was insufficient to justify court in submitting that degree to jury, could not be raised in a subsequent hearing on habeas corpus. *Crossley v California* (1898) 168 US 640, 42 L Ed 610, 18 S Ct 242.

Prosecution presented sufficient evidence to convict defendant of first-degree murder; although jury could have found killing was done solely in anger after finding girlfriend in house with unknown man, when evidence was viewed in light most favorable to prosecution, rational trier of fact could find necessary elements of crime (premeditation and deliberation) beyond reasonable doubt where record showed that defendant systematically abused victim's entire body for over an hour, leaving almost no part of victim unscathed. *Thomerson v Lockhart* (1987, CA8 Ark) 835 F2d 1257.

Evidence that habeas petitioner had placed gun in his pocket before victim picked him up, and that petitioner and victim had prior dispute over stereo speakers was sufficient to support petitioner's conviction of first-degree murder. *Scott v Elo* (2002, CA6 Mich) 302 F3d 598, 2002 FED App 301P, cert den (2003) 537 US 1192, 154 L Ed 2d 1026, 123 S Ct 1272, reh den (2003) 538 US 995, 155 L Ed 2d 697, 123 S Ct 1824.

In habeas corpus challenge to first-degree murder conviction, evidence was sufficient for rational juror to conclude that petitioner had requisite intent to kill, where petitioner accompanied co-defendant, who was armed with semiautomatic weapon, to residence; co-defendant also was armed with weapon and entered through door that had been kicked down; victims were shot repeatedly; although there was time to rob victims after homicides, petitioner and co-defendant walked back and forth in house; female victim's purse was taken, but money and personal

JUDICIARY & JUDICIAL PROCEDURE

property were found on victims; petitioner and co-defendant conversed in whispers after murders; and petitioner had blood on his shirt and was well acquainted with co-defendant. *Torres v Mullin* (2003, CA10 Okla) 317 F3d 1145, cert den (2003) 540 US 1035, 157 L Ed 2d 454, 124 S Ct 562, 2003 CDOS 9856, 2003 Daily Journal DAR 12381.

Given evidence supporting all three Anderson factors—planning, motive, and preconceived design—district court did not err in concluding that there was sufficient evidence to sustain special finding of premeditation to support prisoner's first-degree murder conviction; manner of killing—strangulation—would have required prisoner to apply pressure deliberately and steadily for at least three to five minutes; evidence of planning arose from prisoner's engineering assaults on two women in isolated areas where they could not easily escape or seek help; as for motive, jailhouse informant's testimony indicated that prisoner killed one of his victims so that he could have sex with her dead body or to eliminate possibility of her reporting rape or testifying against him. *Davis v Woodford* (2003, CA9 Cal) 333 F3d 982, 2003 CDOS 5475, 2003 Daily Journal DAR 6938, and on other grounds, reh den, reh, en banc, den (2003, CA9 Cal) 384 F3d 628 and reprinted as and (2004, CA9 Cal) 384 F3d 628, cert dismd (2005) 545 US 1165, 126 S Ct 410, 162 L Ed 2d 933.

State court decision affirming conviction of juvenile for aiding and abetting first-degree murder and attempted first-degree murder was unreasonable application of Fourteenth Amendment requirement that prosecution present evidence sufficient to prove every element of crime beyond reasonable doubt where record contained manifestly insufficient evidence to support necessary conclusions that juvenile knew that his brother planned to commit first-degree murders and that juvenile acted in way intended to encourage or facilitate these killings. *Juan H. v Allen* (2005, CA9 Cal) 408 F3d 1262, cert den (2006) 546 US 1137, 126 S Ct 1142, 163 L Ed 2d 1000 and cert den (2006) 546 US 1137, 126 S Ct 1145, 163 L Ed 2d 1000.

Eyewitness testimony that defendant was seen running from scene of murder, and evidence that hostile feelings existed between victim and defendant almost immediately prior to murder, is sufficient to sustain defendant's first-degree murder conviction. *Dickey v Dutton* (1983, MD Tenn) 595 F Supp 1.

First-degree murder convict is denied federal habeas relief, even though he alleges there was unrefuted evidence of self-defense, because state appellate court noted eyewitness testimony that convict initiated argument with victim and that victim had turned and started to walk away when convict stabbed him repeatedly in back, and rational trier of fact could have concluded that there was no serious provocation or sudden and intense passion which

PARTICULAR PROCE

would justify reduction to Medley v Gramley (1997, I

762. —Second degree mu

State court's determination could conclude beyond defendant, in prosecution and aggravated assault, sp one person and attempted to great weight in fee review of record, Court record supported state court petitioner's argument that to support his conviction *Stalder* (1987, CA5 La) 83

State courts' determinations sufficiently sufficient to situation for second-degree murder nor unreasonable application Supreme Court precedent; one of victim's wrists w conclude that her death w suicide or natural causes, with victim, that they had to state prisoner he admit against rock. *Weston v E* 272 F3d 1109, reh, en banc Mo) 2002 US App LEXIS

Second-degree murder habeas relief under 28 U. ence could be drawn that bille that was available to escape. (2) assisted escap (3) was at or near crime after crime was commit failed to meet his burden jury could have found him beyond reasonable doubt. Mass) 981 F Supp 700.

Bandit tow-truck driver relief, even though he con hieficient to sustain finding t aforesight" or "conse abandoned and malignan another vehicle, consequ because evidence was me implied malice and conv murder based on his driv and known inadequacy of *Contreras v Rice* (1998, C

Convicted murderer is lief, where 2 witnesses t say to victim, "I told you and one saw convict thrus and saw victim clutch at fall to ground, because ra that this evidence estab second-degree murder t *Steele v Walter* (1998, W

Man convicted of seco

RMW
550**FILED**

APR 17 2008

RICHARD S WIEKING
CLERK OF COURT
NORTHERN DISTRICT OF CALIFORNIA**COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT**Name Hernandez, Morales Eli S.
(Last) (First) (Initial)Prisoner Number 72347-008Institutional Address Medical Center P.O. Box 4000
Springfield miss. 65801UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

United States America CV 08 1999

(Enter the full name of plaintiff in this action.)

vs.

Case No. CV 08 4460 SL
(To be provided by the Clerk of Court)COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
Title 42 U.S.C § 1983Eli S. Hernandez Morales
(Enter the full name of the defendant(s) in this action)

E-filing

(PR)

[All questions on this complaint form must be answered in order for your action to proceed.]

I. Exhaustion of Administrative Remedies.

[Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]A. Place of present confinement Springfield Missouri

B. Is there a grievance procedure in this institution?

YES NO

C. Did you present the facts in your complaint for review through the grievance procedure?

YES NO

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue a certain level of appeal, explain why.

CV 08 1999

RMW
(PR)**U.S. District Court Northern California****ECF Registration Information Handout**

The case you are participating in has been designated for this court's Electronic Case Filing (ECF) Program, pursuant to Civil Local Rule 5-4 and General Order 45. This means that you must (check off the boxes when done):

- 1) Serve** this ECF Registration Information Handout on **all** parties in the case along with the complaint, or for removals, the removal notice. DO NOT serve the efiler application form, just this handout.

Each attorney representing a party must also:

- 2) Register** to become an efiler by filling out the efiler application form. Follow ALL the instructions on the form carefully. If you are already registered in this district, do not register again, your registration is valid for life on all ECF cases in this district.
- 3) Email** (do not efile) the complaint and, for removals, the removal notice and all attachments, in PDF format within ten business days, following the instructions below. You do not need to wait for your registration to be completed to email the court.
- 4) Access** dockets and documents using **PACER** (Public Access to Court Electronic Records). If your firm already has a PACER account, please use that - It is not necessary to have an individual account. PACER registration is free. If you need to establish or check on an account, visit: <http://pacer.psc.uscourts.gov> or call **(800) 676-6856**.

BY SIGNING AND SUBMITTING TO THE COURT A REQUEST FOR AN ECF USER ID AND PASSWORD, YOU CONSENT TO ENTRY OF YOUR E-MAIL ADDRESS INTO THE COURT'S ELECTRONIC SERVICE REGISTRY FOR ELECTRONIC SERVICE ON YOU OF ALL E-FILED PAPERS, PURSUANT TO RULES 77 and 5(b)(2)(D) (eff. 12.1.01) OF THE FEDERAL RULES OF CIVIL PROCEDURE.

All subsequent papers submitted by attorneys in this case shall be filed electronically. Unrepresented litigants must file and serve in paper form, unless prior leave to file electronically is obtained from the assigned judge.

ECF registration forms, interactive tutorials and complete instructions for efilng may be found on the ECF website: <http://ecf.cand.uscourts.gov>

Submitting Initiating Documents

PDF versions of all the initiating documents originally submitted to the court (Complaint or Notice of Removal, exhibits, etc.) must be **emailed (not efiled)** to the **PDF email box for the presiding judge** (not the referring judge, if there is one) **within 10 (ten) business days** of the opening of your case. For a complete list of the email addresses, please go to: <http://ecf.cand.uscourts.gov> and click on [Judges].

You must include the case number and judge's initials in the subject line of all relevant emails to the court. You do not need to wait for your registration to email these documents.

These documents must be emailed instead of e-filed to prevent duplicate entries in the ECF system. All other documents must be e-filed from then on. You do not need to efile or email the Civil Cover Sheet, Summons, or any documents issued by the court at case opening; note that you do need to efile the Summons Returned.

Converting Documents to PDF

Conversion of a word processing document to a PDF file is required before any documents may be submitted to the Court's electronic filing system. Instructions for creating PDF files can be found at the ECF web site: <http://ecf.cand.uscourts.gov>, and click on [FAQ].

Email Guidelines: When sending an email to the court, the subject line of the email **must** contain the **case number, judge's initials** and the **type of document(s)** you are sending, and/or the topic of the email.

Examples: The examples below assume your case number is 03-09999 before the Honorable Charles R. Breyer:

Type of Document	Email Subject Line Text
Complaint Only	03-09999 CRB Complaint
Complaint and Notice of Related Case	03-09999 CRB Complaint, Related Case
Complaint and Motion for Temporary Restraining Order	03-09999 CRB Complaint, TRO

Questions

Almost all questions can be answered in our **FAQs** at
<http://ecf.cand.uscourts.gov>, please check them first.

You may also email the ECF Help Desk at ECFhelpdesk@cand.uscourts.gov or
call the toll-free ECF Help Desk number at: (866) 638-7829.

The ECF Help Desk is staffed Mondays through Fridays from
9:00am to 4:00pm Pacific time, excluding court holidays.

NAME: _____ "REQUEST FORM" NUMBER: _____ DATE: _____

CHECK OUT ONLY FOUR (4) BOOKS AT A TIME, TO BE USED IN THE LAW LIBRARY ONLY!

<u>Federal Supplement</u>	<u>Federal Reporter 2d</u>	<u>Federal Reporter 3d L.Ed. 2d</u>	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
<u>Title 18 U.S.C.</u>	<u>Title 21 U.S.C.</u>	<u>Title 28 U.S.C.</u>	<u>Title 42U.S.C</u>
_____	_____	_____	_____
Fed. R. Cv. Procedure	_____	Federal Rules Cr. Procedure	_____
Criminal Law Reporter	_____	American Jurisprudence	_____
Sentencing Guidelines	_____	Program Statement	_____
1994 Violent Crime Act	_____	28 Code of Federal Regulations	_____
U.S. Parole Board Rules	_____	Telephone Regulations	_____
OTHER United States Code Annotated	_____	OTHER REQUESTS	_____

PLACE EITHER THE SPECIFIC NUMBER OF THE BOOK, OR AN X NEXT TO TITLE.

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NAME: _____

UNIT: _____ REG.# _____

DATE: _____

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

I.(a) PLAINTIFFS

Vase
Tungting old form of Don fung tree a subtr. P. cash tree
tiny

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

VACATION

Aleuties for Ditch the & Purge
Family whose no 2000
COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

H.W.O

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Manuel Porcheo

ATTORNEYS (IF KNOWN)

[See Attachment]

II. BASIS OF JURISDICTION (PLACE AN 'X' IN ONE BOX ONLY)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

<input type="checkbox"/> Original Proceeding	<input type="checkbox"/> Removed from State Court	<input type="checkbox"/> Remanded from Appellate Court	<input type="checkbox"/> Reinstated or Reopened	<input type="checkbox"/> Transferred from Another district (specify)	<input type="checkbox"/> Multidistrict Litigation	<input type="checkbox"/> Appeal to District Judge from Magistrate Judgment
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V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury Med Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 450 Commerce/CC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers Liability	PERSONAL PROPERTY	<input type="checkbox"/> 640 RR & Truck	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 680 Other	<input type="checkbox"/> 490 Cable/Satellite TV
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	LABOR	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 720 Labor/Mgmt Relations	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 198 Franchise			<input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act	<input type="checkbox"/> 881 Agricultural Acts
			<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 882 Economic Stabilization Act
			<input type="checkbox"/> 750 Other Labor Litigation	<input type="checkbox"/> 883 Environmental Matters
			<input type="checkbox"/> 791 Empl.Ret. Inc. Security Act	<input type="checkbox"/> 884 Energy Allocation Act
				<input type="checkbox"/> 885 Freedom of Information Act
				<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
				<input type="checkbox"/> 950 Constitutionality of State Statutes
				<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motion to Vacate Sentence Habess Corpus:	<input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant)	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing	<input type="checkbox"/> 535 Death Penalty		
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other		
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights		
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 445 Amer w/ disab - Emp	<input type="checkbox"/> 555 Prison Condition		

VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION DEMAND \$
UNDER F.R.C.P. 23 CHECK YES only if demanded in complaint:
JURY DEMAND: YES NO

VIII. RELATED CASE(S) PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE
IF ANY "NOTICE OF RELATED CASE". CV 94 00 SL 9-4-2007

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)

(PLACE AND "X" IN ONE BOX ONLY)

 SAN FRANCISCO/OAKLAND SAN JOSE

DATE

8-4 2008

SIGNATURE OF ATTORNEY OF RECORD

ALIA LODIOM

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44
Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs - Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a). F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1335 and 1338. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

V. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases. Date and Attorney Signature.

Date and Attorney Signature. Date and sign the civil cover sheet.